

B-3:INTERNATIONAL CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER

Name of the Convention: International Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, 1972

Acronym or short name: London Dumping Convention (LDC)

International organisation in charge of it: International Maritime Organization (IMO)

Summary description (in plain language): The London Convention has a global character, and contributes to the international control and prevention of marine pollution. The Convention aims to prevent indiscriminate disposal at sea of wastes liable to create hazards to human health, to harm living resources and marine life, to damage amenities, or to interfere with other legitimate uses of the sea (art.I).

It prohibits the dumping of certain hazardous materials, requires a prior special permit for the dumping of a number of other identified materials and a prior general permit for other wastes or matter. "Dumping" has been defined as the deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures, as well as the deliberate disposal of these vessels or platforms themselves (art.II). Wastes derived from the exploration and exploitation of sea-bed mineral resources are, however, excluded from the definition.

Neither shall the provisions of the Convention apply when it is necessary to secure the safety of human life or of vessels in cases of force majeure (art.V). Among other requirements, Contracting States undertake to designate an authority to deal with permits, keep records, and monitor the condition of the sea (art.VI). Other articles are designed to promote regional co-operation, particularly in the fields of monitoring and scientific research (art.IX).

Annexes (art.IV) list wastes which cannot be dumped and others for which a special dumping permit is required. The criteria governing the issuing of these permits are laid down in a third Annex which deals with the nature of the waste material, the characteristics of the dumping site and method of disposal.

In 1996, the "London Protocol" was agreed to further modernize the Convention and, eventually, replace it. Under the Protocol, all dumping is prohibited, except for possibly acceptable wastes on the so-called "reverse list". This list includes the following: - dredged material, - sewage

sludge, - fish wastes, - vessels and platforms, - inert, inorganic geological material, - organic material of natural origin, - bulky items primarily comprising iron, steel and concrete, - carbon dioxide streams from carbon dioxide capture processes for sequestration. The London Protocol entered into force on 24 March 2006.

Date of signature: (LONDON CONVENTION) 13 November 1972

(1996 PROTOCOL) 7 November 1996

Date of entry into force: (LONDON CONVENTION) 30 August 1975

(1996 PROTOCOL) 24 March 2006

Major Revisions or Amendments:

1978 amendments: (Adoption 12 October 1978, Entry into Force 11 March 1979)

These amendments affect the Annex I of the convention and are concerned with the incineration of wastes and other matter at sea. The amendments also introduce a new procedure for the settlement of disputes.

1980 amendments:(Adoption 24 September 1980, Entry into Force 11 March 1981)

These amendments are related to those concerned with incineration of waste and list substances which are require special care when being incinerated.

1989 amendments: (Adoption 3 November 1989, Entry into Force 19 May 1990)

These amendments concern the procedures to be followed when issuing permits under Annex III. Before this is done, consideration has to be given to whether there is sufficient scientific information available to assess the impact of dumping.

1993 amendments:(Adoption 12 November 1993, Entry into Force 20 February 1994)

The amendments banned the dumping into sea of low-level radioactive wastes. In addition, the amendments: phased out the dumping of industrial wastes by 31 December 1995; and also banned the incineration at sea of industrial wastes.

1996 Protocol: (Adoption 7 November 1996, Entry into Force 24 March 2006)

The 1996 Protocol replaces the 1972 Convention but allows both instruments to be in force side by side for some time gradually shifting to the 1996 Protocol as more and more States ratify the Protocol. It represents a major change of approach to the question of how to regulate the use of the sea as a depository for waste materials. It in essence, prohibits dumping except for materials on an approved list, so called "reverse list". This contrasts with the 1972 Convention which permitted dumping of wastes at sea, except for those materials on a banned list.

One of the most important innovations is the introduction of the "precautionary approach". (art. 3) This requires that "appropriate preventative measures are taken when there is reason to believe that wastes or other matter introduced into the marine environment are likely to cause harm even when there is no conclusive evidence to prove a causal relation between inputs and their effects". The article also provides that "the polluter should, in principle, bear the cost of pollution" and it emphasizes that Contracting States should ensure that the 1996 Protocol should not simply result in pollution being transferred from one part of the environment to another.

The 1972 Convention permits dumping to be carried out provided certain conditions are met. The severity of these conditions varies according to the danger to the environment presented by the materials themselves and there is a "black list" containing materials which may not be dumped at all. The protocol of 1996 is much more restrictive. It states that Contracting States "shall prohibit the dumping of any wastes or other matter with the exception of those listed in Annex 1" (Art.4). The only exceptions to this rule are contained in Article 8 which permits dumping to be carried out "in cases of force majeure ... or in any case which constitutes a danger to human life or a real threat to vessels". Whereas incineration of wastes at sea is still permitted under the 1972 Convention, the Protocol specifically prohibited incineration at sea by Article 5.

The Protocol also provides that "Contracting Parties shall not allow the export of wastes or other matter to other countries for dumping or incineration at sea".(Art.6) The Protocol contains three Annexes. Annex 1 shows exceptional list of materials from dumping prohibition. Other two Annexes deal with assessment of wastes and arbitral procedures.

2006 Amendments to the 1996 Protocol: (Adoption 2 November 2006 , Entry into force 10 February 2007)

The 1996 Protocol was amended to regulate the sequestration of CO₂ streams from CO₂ capture processes in sub-seabed geological formations with adding "CO₂ streams from CO₂ capture processes" into its Annex 1 List, so called Reverse List. This means that a basis has been created in international environmental law to regulate carbon capture and storage(CCS) in

sub-seabed geological formations to tackle the challenge of climate change and ocean acidification.

Applicability (situation of ratification): (as at 30 September 2008)

LDC 1972; 84 states, 67.09 % of world tonnage,

LDC Protocol 1996; 36 states, 30.53 % of world tonnage.

This convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession (art.XIX).

Stakes for ports: This Convention creates an “appropriate authority” (art.VI) to issue permits required for the dumping wastes or matter, to keep record and to monitor the condition of the sea.

1) While the 1972 London Convention categorized “Dredged Material” as one of “Industrial Wastes” which were exempted from prohibition of dumping (Annex I-11), the 1996 Protocol stipulates that “any wastes or other matter with exception of those listed” in Annex 1 to the Protocol shall be prohibited. Dredged materials are listed in its exception list and “may be considered for dumping being mindful of the Objectives and General Obligations of this Protocol”.

Links with other conventions: UNCLOS, Rio Declaration on environment and development

Key-words: Prevention, marine pollution, dumping of wastes, incineration at sea, permits, liability

Internet hyperlink with other website: <http://www.imo.org/> ; <http://www.comitemaritime.org/> ; <http://www.londonconvention.org/>

(Full text) http://www.imo.org/includes/blastDataOnly.asp/data_id%3D16925/LC1972.pdf